

CONSERVATION EASEMENT STEWARDSHIP

Renee J. Bouplon
Brenda Lind, Contributing Author
Executive Editor · Sylvia Bates
Peer Reviewers · Shelton Douthit and Laurel A. Florio



**CONSERVATION EASEMENT
STEWARDSHIP**

CONSERVATION EASEMENT STEWARDSHIP

Practice 11B: Baseline Documentation Report

Practice 11C: Easement Monitoring

Practice 11D: Landowner Relationships

COURSE AUTHOR *Renee J. Bouplon*
AGRICULTURAL STEWARDSHIP ASSOCIATION

CONTRIBUTING AUTHOR *Brenda Lind* CONSULTANT

REVIEWERS *Laurel A. Florio, JD*

Shelton Douthit
SHELTON DOUTHIT CONSULTING

EXECUTIVE EDITOR *Sylvia Bates*
LAND TRUST ALLIANCE

MANAGING EDITOR *Mary Burke*
LAND TRUST ALLIANCE

CONSERVATION EASEMENT
STEWARDSHIP



Renee J. Bouplon
and
Brenda Lind

THE LAND TRUST ALLIANCE

THE LAND TRUST ALLIANCE's mission is to save the places people love by strengthening land conservation across America.

Land Trust Alliance course materials are furnished as tools to help land trusts implement *Land Trust Standards and Practices*. They are provided with the understanding that the Land Trust Alliance is not engaged in rendering legal, accounting or other professional counsel. If legal advice or other expert assistance is required, the services of competent professionals should be sought. The Land Trust Alliance makes no assurances that land trusts attending or completing these courses will be granted accredited status by the Land Trust Accreditation Commission. The Land Trust Alliance is solely responsible for the contents of this book.

First Edition

Copyright 2008, The Land Trust Alliance

10 9 8 7 6 5 4 3 2 1 08 09 10 11

All Rights Reserved

ISBN 978-0-943915-25-8

Design · Robert A. Yerks · Sterling Hill Productions

Printed in Canada



Acknowledgments

The author gratefully acknowledges the assistance provided by the Land Trust Alliance, especially Mary Burke and Sylvia Bates, contributing author, Brenda Lind, peer reviewers, Laurel A. Florio and Shelton Douthit, pilot instructors Leslie Ratley-Beach, Chris Rodstrom and Kathy Sferra and research assistant Caroline Raisler. She is also thankful for the support of Judy Anderson, Jane Ellen Hamilton, Esq., and the staffs of the Agricultural Stewardship Association and the Columbia Land Conservancy.

The author would also like to thank the numerous individuals and land trusts that shared information, examples and “lessons learned” that made this curriculum possible: Agricultural Stewardship Association, Arizona Open Land Trust, Ausbon Sargent Land Preservation Trust, Bay Area Open Space Council, Big Sur Land Trust, Brandywine Conservancy, Hunter Brawley of Brawley Consulting Group, LLC, Colorado Cattlemen’s Agricultural Land Trust, Colorado Open Lands, Columbia Land Conservancy, Columbia Land Trust, CorLands, Andrew Dana, Esq., Door County Land Trust, Dutchess Land Conservancy, Gallatin Valley Land Trust, Grand Traverse Regional Land Conservancy, Iowa Natural Heritage Foundation, Jackson Hole Land Trust, Lancaster Farmland Trust, Land Trust of the Eastern Panhandle (West Virginia), Legacy Land Trust, Robert Levite, Esq., Liberty Prairie Conservancy, Lincoln Land Conservation Trust, Lowcountry Open Land Trust, Maine Coast Heritage Trust, Marin Agricultural Land Trust, Massachusetts Audubon Society, Massachusetts Easement Defense Subcommittee, Minnesota Land Trust, Mojave Desert Land Trust, Monadnock Conservancy, Montana Land Reliance, Mountain Conservation Trust of Georgia, Natural Lands Trust, The Nature Conservancy – Chapters of Maryland/District of Columbia, Michigan, New Hampshire, Rhode Island and Wyoming, New England Forestry Foundation, Open Space Institute, Ozark Regional Land Trust, Peconic Land Trust, Peninsula Open Space Trust, Piscataquog Watershed Association, Potomac Conservancy, River Fields, Rocky Mountain Elk Foundation, Brian Rod, San Juan Preservation Trust, Scenic Hudson, Society for the Protection of New Hampshire Forests, Sonoma Land Trust, Sudbury Valley Trustees, Tall Timbers Land Conservancy, Taos Land Trust, Teton Regional Land Trust, The Trustees of Reservations, Upper Valley Land Trust, Vermont Land Trust, Western Reserve Land Conservancy, Wood River Land Trust, Elizabeth L. Wroblicka, Esq., attendees of the pilot course and any and all that may have been unintentionally omitted.

C O N T

ACKNOWLEDGMENTS · 5

A NOTE ON THE STANDARDS AND PRACTICES CURRICULUM AND ACCREDITATION · 9

SUMMARY · 11

INTRODUCTION · 13

Audience · 13

Using the Student Guide · 14

Resources · 15

CHAPTER ONE • CONSERVATION EASEMENT STEWARDSHIP AND CAPACITY: AN OVERVIEW

Learning Objectives · 17

Summary · 18

Evaluate Your Practices · 18

Guiding Principles for Stewardship · 20

Capacity · 22

Funding Easement Stewardship · 24

Ensuring Integrity · 25

Putting It into Practice Exercise One: Drafting a Stewardship Principles Statement · 27

Case Study: Stewardship Policies and Practices Maine Coast Heritage Trust · 29

Conclusion · 33

Sample Documents · 34

Additional Resources · 56

Check Your Progress · 57

CHAPTER TWO • LANDOWNER RELATIONSHIPS

Learning Objectives · 59

Summary · 60

Evaluate Your Practices · 61

E N T S

Landowner Relationships and Long-Term Conservation · 63
Capacity: Financial and Personnel Implications of Landowner Relationships · 65
Building Strong Relationships with Landowners · 67
Tracking Land Ownership of Easement Properties · 83
Co-Holding Conservation Easements · 86
<i>Putting It into Practice Exercise One: Working with Easement Landowners · 88</i>
<i>Case Study: Landowner and Community Outreach Dutchess Land Conservancy · 94</i>
Conclusion · 97
Sample Documents · 98
Additional Resources · 145
Check Your Progress · 146

CHAPTER THREE • USING BASELINE DOCUMENTATION REPORTS

Learning Objectives · 150
Summary · 150
Evaluate Your Practices · 151
Overview of Baseline Documentation · 153
Baseline Reports: A Communication Tool · 154
Baseline Reports: An Information Resource · 156
Baseline Reports: A Monitoring and Training Tool · 157
Baseline Reports: An Enforcement Tool · 160
Baseline Documentation Supplements · 161
Financial and Personnel Implications of Baseline Documentation · 162
<i>Putting It into Practice Exercise One: Evaluating Baselines for Multiple Users · 166</i>
<i>Case Study: Catching Up on the Baseline Backlog · 170</i>
Conclusion · 173
Sample Documents · 174
Additional Resources · 204
Check Your Progress · 205

C O N T E N T S

CHAPTER FOUR • EASEMENT MONITORING

- Learning Objectives · 207
- Summary · 209
- Evaluate Your Practices · 210
- Overview of Easement Monitoring · 212
- Setting the Protocols for a Monitoring Program · 215
- Conducting Ground Monitoring · 230
- Tracking Monitoring Costs · 244
- Strategies for Implementing or Improving a Monitoring Program · 245
 - Putting It into Practice Exercise One: Monitoring Policy Template* · 246
 - Case Study: Monitoring in a Growing Land Trust Agricultural Stewardship Association* · 253
- Conclusion · 257
- Sample Documents · 258
- Additional Resources · 291
- Check Your Progress · 293

NEXT STEPS · 295

APPENDIX A · 297

APPENDIX B · 327

GLOSSARY · 345

INDEX · 349

A Note on the Standards and Practices Curriculum and Accreditation

Conservation Easement Stewardship is part of the Land Trust Alliance's Standards and Practices Curriculum and is designed to provide you with guidance and tools to implement Practices 11B, 11C and 11D.

This course will:

- Help you understand the practices
- Provide you with tools to implement the practices in your organization
- Inspire organizational change
- Help you save more land for the long term

The Standards and Practices Curriculum is made up of 15 courses that cover the accreditation indicator practices. Indicator practices demonstrate that a land trust is operating in an ethical, legal and technically sound manner and ensure the long-term protection of land in the public interest. Voluntary land trust accreditation will provide independent verification of these practices.

The evaluations contained in this book are for training purposes only. They are not designed or intended to determine if your land trust is ready for accreditation.

Completing a course does not necessarily demonstrate that an organization is actually carrying out the practice. Therefore, the Land Trust Accreditation Commission, an independent program of the Land Trust Alliance, will examine documents and information in project files to verify that each indicator practice is being carried out in the land trust applying for accreditation. For specific guidance on how to interpret Practices 11B and 11C for land trust accreditation, see the guidance document posted on www.landtrustaccreditation.org. This course and others in the curriculum are designed to help your land trust understand how to implement the practices.

Please note:

- The curriculum is *not* required for accreditation
- Completing the curriculum will *not* guarantee accreditation

For more information on accreditation, visit www.landtrustaccreditation.org. To learn more about the Land Trust Alliance's training and assistance programs, visit www.lta.org.

SYLVIA BATES
Executive Editor, Standards and Practices Curriculum
Director of Standards and Research, Land Trust Alliance

Summary

Being entrusted to uphold a landowner's conservation vision for a special property is an honor. Upholding that vision in perpetuity is an obligation.

The use of conservation easements (also known as conservation restrictions) as a land protection tool is more prevalent today than ever before. Easements are used to protect everything from the smallest of wetlands to working agricultural lands to forest parcels comprising hundreds of thousands of acres. The number and complexity of easements and the number of easement holders have grown at a startling rate during the past few decades. It is easy to understand why. Conservation easements empower landowners to protect their property's important conservation values and leave a legacy to future generations, as well as utilize tax benefits for donated gifts or receive financial consideration for selling development rights.

If the conveyance of an easement is the first step in conserving a property, then the second step, an ongoing one, is easement stewardship. Easement holders have a legal and ethical responsibility to ensure that landowners comply with the terms of their conservation easements to uphold the public benefit. As land trusts acquire more experience with easement stewardship and gain a better understanding of the breadth of stewardship challenges, they recognize the need for a sound easement stewardship program and sufficient resources to meet its demands.

If a land trust fails to meet its basic stewardship obligations, the consequences can be disastrous for the organization and the land trust community. For example, insufficient monitoring, or a lack of it entirely, can jeopardize the land trust's legal ability to enforce a conservation easement. Without a track record of consistent monitoring, other landowners may decline to move forward with easement conveyances, and monetary donors may give to other charitable organizations, causing



Important conservation values:

The key values or attributes on the property that are the focus of protection efforts. Important conservation values are determined during the property evaluation and project planning process.

Conservation easement stewardship: All aspects of a land trust's management of a conservation easement after its acquisition, including monitoring; landowner relations; recordkeeping; processing landowner notices, requests for approval and amendments; managing stewardship funds; and enforcement and defense.

financial hardship for the organization. Additionally, other land trust supporters may develop concerns about the organization's ability to operate in the public benefit. Over the long term, such a situation will damage the land trust's working relationships with current easement owners, their neighbors and community members who may no longer support or work with the land trust to fulfill its mission and goals. Finally, consistently poor stewardship may have a ripple effect on the larger land trust community nationally and the future use of conservation easements as a viable land protection tool.

The foundation of an effective easement stewardship program is based on good working relationships with landowners, thorough baseline documentation reports and annual monitoring. Allocating time and financial resources to these critical components will be time and money well spent. These activities will allow land trusts to be proactive in their stewardship responsibilities, rather than reactive. Land trusts can then become partners with easement landowners to ensure that protected land remains protected for the long term.

This course covers the essentials of an effective stewardship program. Chapter 1 discusses how to create an appropriate stewardship approach that will help your land trust meet its mission. Chapter 2 offers strategies for building strong landowner relationships. Chapter 3 covers using and updating baseline documentation reports, and chapter 4 discusses how to monitor easements and includes a template for creating a monitoring policy unique to your land trust.

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

340 pages copyrighted materials

